

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

MC ACQUISITIONS, INC., d/b/a)	
MILLCAST, INC.,)	
)	
Plaintiff/Counterclaim)	
Defendant,)	
)	
vs.)	Case No. 2:04-cv-0388-TMP
)	
ARCHITECTURAL PRODUCTS, INC.,)	
)	
Defendant/Counterclaimant.)	

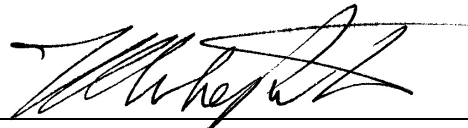
MEMORANDUM OPINION AND ORDER

In a verdict rendered July 15, 2005, the jury found for plaintiff/counterclaim defendant, MC Acquisitions, Inc., d/b/a MillCast, Inc., on all claims asserted in the counterclaim by the defendant/counterclaimant, Architectural Products, Inc. As previously found on MC Acquisition's motion for summary judgment, MC Acquisition is entitled to judgment against Architectural Products, Inc., for an admitted debt in the amount of \$24,620.28. Because Architectural Products, Inc., failed to win an award against plaintiff, there is nothing against which to set-off the debt. Therefore, in a separate judgment, the court will enter judgment in favor of plaintiff, MC Acquisitions, Inc., and against Architectural Products, Inc., in the amount of \$24,620.28.

Additionally, Architectural Products, Inc., filed a timely motion on May 6, 2005, for attorneys fees incurred in connection with successfully obtaining an order to compel certain discovery responses from the plaintiff. Plaintiff MC Acquisitions, Inc., filed an untimely motion on July 19, 2005, for similar fees incurred in successfully opposing portions of the motion filed by Architectural Products, Inc. Because most of the relief sought in the motion to compel was denied by the court,

and because, as noted in the order to compel, most of the remaining discovery disputes were the product of miscommunication, not wilful obstruction, it would not be appropriate to award attorneys fees for the part of the motion on which defendant was successful. Consequently, both motions for the award of Rule 37 attorneys fees are DENIED.

DONE this 26th day of July, 2005.

A handwritten signature in black ink, appearing to read 'T. Michael Putnam', written over a horizontal line.

T. MICHAEL PUTNAM
U.S. MAGISTRATE JUDGE